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10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
12 SACRAMENTO DIVISION
13

14 ELISA M. SWEENEY,
15

16 Plaintiff,
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18 v.
19

20 KILOLO KIJAKAZI,
Acting Commissioner of Social Security,
21

22 Defendant.¹
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24
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No. 2:21-cv-00126 AC

STIPULATION AND ~~PROPOSED~~ ORDER FOR
EXTENSION TO FILE DEFENDANT'S CROSS-
MOTION FOR SUMMARY JUDGMENT

26 The parties stipulate through counsel that Defendant, the Acting Commissioner of Social
27 Security (the "Commissioner"), shall have an extension of time to file her cross-motion for
28 summary judgment in this case. In support of this request, the Commissioner respectfully states
as follows:

1. Primary responsibility for handling this case has been delegated to the Office of

¹ Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi should be substituted, therefore, for Andrew Saul as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

1 the Regional Chief Counsel, Region IX, in San Francisco, California (the “Region IX Office”).

2 2. Defendant’s response to Plaintiff’s opening brief is currently due November 18,
3 2021. Defendant has not previously requested an extension of time for this deadline.

4 3. The Region IX Office currently handles all district and circuit court litigation
5 involving the Social Security program arising in Arizona, California, Hawai‘i, Nevada, and
6 Guam.

7 4. The Region IX Office employs 44 staff attorneys, of whom 30 are actively
8 handling civil litigation involving the Social Security program in the eight assigned jurisdictions.
9 Most of the attorneys who handle program litigation cases have additional responsibilities, such
10 as litigating in other practice areas described below, acting as Jurisdictional leads, reviewing the
11 work product of junior attorneys, conducting trainings, and participating in national workgroups.
12 In addition, because of attorneys taking unexpected leave or resigning, the Region IX Office has
13 had to re-assign dozens of cases and substitute in new counsel who have had to absorb these re-
14 assigned cases into their existing caseloads.

15 5. As of September 14, 2021, the Region IX Office has 404 district court briefs due
16 in the next sixty days in the jurisdictions it handles; at least 300 of these are due in the next thirty
17 days. In addition, the Region IX Office has nine appellate cases pending for briefing.

18 6. In addition to “program” litigation, the Region IX Office provides a full range of
19 legal services as counsel for the Social Security Administration, in a region that covers four states
20 (including the most populous state in the nation) and three territories. These other workloads
21 include employment litigation; civil rights investigations; bankruptcy matters; and requests for
22 legal advice on wide-ranging topics, including Regional office client requests for advice on
23 program issues, employee conduct and performance, reasonable accommodation, hostile work
24 environment, ethics, Privacy Act and disclosure, and torts. Because of the high volume of
25 program litigation cases, the Region IX Office has had to focus its efforts on processing only
26 other workloads that are subject to statutory, regulatory, and court deadlines.

27 7. The undersigned attorney has 20 briefs due in district court cases over the next two
28 months, as well as other responsibilities within her office with deadlines that cannot be extended.

8. Due to the volume of the overall workload within the Region IX Office, neither the undersigned attorney nor another attorney in the Region IX Office anticipate being able to complete briefing by the current due date of October 15, 2021. Therefore, Defendant seeks an extension of 60 days, until January 17, 2022 to respond to Plaintiff's opening brief.

9. This request is made in good faith and is not intended to delay the proceedings in this matter.

WHEREFORE, Defendant requests until January 17, 2022, to file her cross-motion for summary judgment.

Respectfully submitted,

DATE: October 8, 2021

/s/John David Metsker
JOHN DAVID METSKER
Attorney for Plaintiff
(as approved via email)

PHILLIP A. TALBERT
Acting United States Attorney

DATE: October 8, 2021

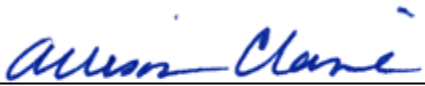
By s/Margaret Lehrkind
MARGARET LEHRKIND
Special Assistant United States Attorney

Attorneys for Defendant

ORDER

Pursuant to stipulation, it is so ordered.

DATE: October 12, 2021


ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE